

HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the HA or the owner under the HAP contract.

§ 982.457 Owner refusal to lease.

(a) Section 8(t) of the 1937 Act (42 U.S.C. 1437f(t)) provides that an owner who has entered into a HAP contract under Section 8 of the 1937 Act on behalf of any tenant in a multifamily housing project shall not refuse:

(1) To lease any available dwelling unit in any multifamily housing project of the owner that rents for an amount not greater than the fair market rent for a comparable unit to a holder of a rental certificate under Section 8 and to enter into a HAP contract respecting the unit, if a proximate cause of the refusal is the status of the prospective tenant as a holder of a certificate; or

(2) To lease any available dwelling unit in any multifamily housing project of the owner to a voucher holder and to enter into a HAP contract respecting the unit, a proximate cause of which is the status of such prospective tenant as a holder of such voucher.

(b) For the purposes of Section 8(t), the term *multifamily housing project* means a residential building containing more than four dwelling units.

Subpart K—Rent and Housing Assistance Payment

SOURCE: 63 FR 23861, Apr. 30, 1998, unless otherwise noted.

§ 982.501 Overview.

(a) There are three types of tenancy in the Section 8 tenant-based programs:

(1) A regular tenancy under the certificate program;

(2) An over-FMR tenancy under the certificate program; and

(3) A tenancy under the voucher program.

(b) Some requirements of this subpart are the same for all three types of tenancy. Some requirements only apply to a specific type of tenancy. Unless specifically stated, requirements of this subpart are the same for all tenancies in the tenant-based programs.

§ 982.502 Negotiating rent to owner.

The owner and the family negotiate the rent to owner. At the family's request, the HA must help the family negotiate the rent to owner.

§ 982.503 Rent to owner: Reasonable rent.

(a) *HA determination.* (1) The HA may not approve a lease until the HA determines that the initial rent to owner is a reasonable rent.

(2) The HA must redetermine the reasonable rent:

(i) Before any increase in the rent to owner;

(ii) If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or

(iii) If directed by HUD.

(3) The HA may also redetermine the reasonable rent at any other time.

(4) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the HA.

(b) *Comparability.* The HA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the HA must consider:

(1) The location, quality, size, unit type, and age of the contract unit; and

(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

(c) *Owner certification of rents charged for other units.* By accepting each monthly housing assistance payment from the HA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the HA information requested by the HA on rents charged by the owner for other units in the premises or elsewhere.

§ 982.504 Maximum subsidy: FMR/exception rent limit.

(a) *Purpose.* (1) Fair market rents (FMRs) are published by HUD. In the